



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

ENACTED

AMENDED

FACT SHEET FOR H.B. 2860/S.B. 1727

criminal justice; 2022-2023

Purpose

Makes statutory and session law changes relating to criminal justice necessary to implement the FY 2023 state budget.

Background

The Arizona Constitution prohibits substantive law from being included in the general appropriations, capital outlay appropriations and supplemental appropriations bills. However, it is often necessary to make statutory and session law changes to effectuate the budget. Thus, separate bills called budget reconciliation bills (BRBs) are introduced to enact these provisions. Because BRBs contain substantive law changes, the Arizona Constitution provides that they become effective on the general effective date, unless an emergency clause is enacted.

H.B. 2860 contains the budget reconciliation provisions for changes relating to criminal justice.

Provisions

Major Incident Division

1. Requires the Department of Public Safety (DPS), effective July 1, 2026, to establish and maintain a new Major Incident Division (Division) subject to legislative appropriation.
2. Requires the Superintendent of the Division to:
 - a) be selected on the basis of training and experience;
 - b) have at least five years of experience in the administration of law enforcement; and
 - c) be a certified peace officer.
3. Allows the Director of DPS (Director) to adopt rules governing the policies, procedures and administration of all activities of the Division.
4. Requires the Division, when conducting investigations of critical force incidents, to use investigators who:
 - a) are certified by the Arizona Peace Officer Standards and Training Board (AZPOST) or who were sworn employees of a federal, state, county or local law enforcement agency;
 - b) have demonstrated the skills, knowledge, abilities and training as approved by the Director; and
 - c) have successfully completed investigative courses identified by the Director and approved by AZPOST.

5. Requires investigators who were employed by a federal, state, county or local law enforcement agency to:
 - a) have retired or left the law enforcement agency in good standing;
 - b) not have been under investigation at the time of retirement or resignation from the law enforcement agency;
 - c) not have retired or resigned in lieu of termination or discipline; and
 - d) have been honorably discharged, if a veteran of the U.S. military.
6. Requires the Division, at the written request of a chief of police or county sheriff, to investigate a criminal allegation against a peace officer who is employed by the law enforcement agency.
7. Requires each law enforcement agency to require the Division, a regional law enforcement task force or another law enforcement agency to perform the criminal investigation of any critical force incidents in Arizona.
8. Defines *critical force incident* as:
 - a) any discharge of a firearm by a peace officer, due to a use of force encounter, regardless of whether it results in the injury or death of an individual; or
 - b) an incident involving a peace officer's intended use of deadly force or use of force by any other means that results in death or serious bodily injury of another person, either during an on-duty incident or off-duty incident while acting under the color of authority.

Community Treatment Program for Imprisoned Women

9. Requires the Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) to establish a community treatment program (program) for imprisoned women and their children.
10. Requires ADCRR, subject to the availability of monies, to contract with an experienced nonprofit entity to establish and operate a community treatment center.
11. Allows ADCRR to transfer a woman who has recently given birth to the community treatment center to live with her child or children.
12. Requires the program to provide trauma-informed substance abuse treatment, mental health treatment and a secure environment for the woman and her child or children.
13. Requires ADCRR to adopt rules for the program, including eligibility requirements for entering the program and living in the community treatment center, taking into account public safety and generally accepted correctional practices when developing and implementing rules regarding the program.
14. Requires the program to provide programs and support services to assist mothers and their children in developing the skills necessary to become functioning, self-sufficient families.
15. Requires the programs to include:
 - a) substance abuse treatment;
 - b) well-being and emotional supports;
 - c) parenting skills;
 - d) educational and employment skills;
 - e) financial literacy; and
 - f) workforce skills training.

16. Requires the contracted nonprofit entity to provide care consistent with medical standards and, to the extent feasible, must be guided by the need to provide:
 - a) a stable, caregiving and stimulating environment for the children as developed and supervised by professional guidance in the area of child development;
 - b) the least restrictive alternative to incarceration and restraint possible to achieve the objectives of correction and this legislation consistent with public safety and justice; and
 - c) programs that are geared to ensure the stability of the parent-child relationship during and after participating in the program and that are developed and supervised by appropriate professional guidance.
17. Requires the programs intended to ensure parent-child relationship stability, at a minimum, to be geared to accomplish:
 - a) the mother's management of identified substance abuse;
 - b) the mother's familiarity with good parenting skills;
 - c) the mother's ability to function in the community, on community supervision or release, as a law-abiding citizen;
 - d) securing adequate housing arrangements after participating in the program;
 - e) securing adequate child care arrangements after participating in the program; and
 - f) engaging in productive employment after participating in the program.
18. Requires ADCRR, subject to available monies, to place up to 20 women in the program in the first year after establishing the program, and up to 50 women in the second year and each year thereafter.
19. Requires a woman, in order to be eligible for the program, to give birth to a child while imprisoned and be scheduled to be released from imprisonment within five years.
20. Stipulates that a child who resides at the community treatment center is not subject to the same security restrictions as the prisoner except as necessary to ensure the child's safety, the security of the facility and compliance with program rules.

Anti-human Trafficking Grant Fund (Trafficking Fund)

21. Establishes the Trafficking Fund consisting of monies appropriated by the Legislature.
22. States that monies in the Trafficking Fund are continuously appropriated.
23. Requires the Department of Emergency and Military Affairs to administer the Trafficking Fund and distribute monies in the Trafficking Fund to programs to reduce human trafficking in Arizona.
24. Requires an anti-human trafficking program, to be eligible for grant monies, to:
 - a) work to reduce human trafficking by providing assistance and analytical services to law enforcement agencies; or
 - b) provide services to victims and training to law enforcement agencies, prosecutorial agencies and the public on preventing and identifying human trafficking.

State Aid for Juvenile Dependency Proceedings Fund (Dependency Fund)

25. Establishes the Dependency Fund consisting of legislative appropriations.

26. Requires monies in the Dependency Fund to be used to provide state aid to county public defenders, legal defenders and contract indigent defense counsel for the processing of juvenile dependency proceedings.
27. Requires the Arizona Criminal Justice Commission (ACJC) to administer the Dependency Fund.
28. Requires the ACJC, by September 1 of each fiscal year, to distribute monies in the Dependency Fund to each eligible county in which the three-year average of the total juvenile dependency case filings in the county superior court exceeds the three-year average for case filings in FYs 2013, 2014 and 2015.
29. Requires the distribution to each county to be based on the proportional share of the increase in petitions for each county.
30. Requires the county board of supervisors (BOS) to separately account for the monies distributed for juvenile dependency case filing increases and allows the BOS to spend monies only specified purposes.
31. Requires the county treasurer to invest monies and requires interest earned from investments to be spent only for specified purposes.
32. Requires the State Treasurer, on notice from the ACJC, to invest and divest monies in the Dependency Fund and credit interest earned from investments to the Dependency Fund.
33. Specifies that monies in the Dependency Fund are continuously appropriated and exempt from lapsing.

Attorney General (AG)

34. Allows the AG to compensate counsel appointed in suits to enforce state or federal statutes pertaining to antitrust, restraint of trade or price-fixing activities or conspiracies at a rate exceeding \$50 per hour.

Criminal Justice Enhancement Fund (CJEF)

35. Removes the Peace Officers' Training Fund as a recipient of the CJEF distribution and reallocates the monies to all other CJEF recipients.

Miscellaneous

36. Makes technical and conforming changes.
37. Becomes effective on the general effective date, with a delayed effective date as noted.

Amendments Adopted by Committee of the Whole

1. Requires the ADCRR to establish a program for imprisoned women and their children and, subject to the availability of monies, contract with an experienced nonprofit entity to establish and operate a community treatment center.

2. Requires the program to provide trauma-informed substance abuse treatment, mental health treatment and a secure environment.
3. Requires ADCRR to adopt rules for the program, including eligibility requirements for entering and living in the center.
4. Requires the program to provide outlined services necessary to become functioning, self-sufficient families.
5. Requires the nonprofit contractor to provide pediatric care that is consistent with medical standards and provides a stable environment to facilitate the parent-child relationship.
6. Requires ADCRR to place up to 20 women in the program in the first year after establishing the program, and up to 50 women in the second year and each year thereafter.
7. Requires a woman to give birth to a child while imprisoned and be scheduled for release with five years in order to qualify for the program.
8. Stipulates that a child who resides at the treatment center is not subject to the same security restrictions as the prisoner except as necessary to ensure the child's safety the security of the facility and compliance with program rules.

House Action

APPROP 6/21/22 DP 8-5-0-0
3rd Read 6/23/22 48-11-0

Senate Action

APPROP 6/22/22 DP 5-3-2
3rd Read 6/23/22 19-9-2
(H.B. 2860 was substituted for S.B. 1727 on
3rd Read)

Signed by the Governor 6/28/22
Chapter 311

Prepared by Senate Research
July 7, 2022
ZD/slp